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असाधारण

EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 7th September, 2007:—

I

BILL NO. XVI OF 2007

A Bill to provide for the payment of old age pension to the farmers and for settling loans taken by the farmers from the Banks, Co-operative Banks and other institutions and to lay requisite guidelines for extending loans to farmers by such institutions so as to remove the indebtedness amongst them and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Farmers (Old Age Pension and Removal of Indebtedness) Act, 2007.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "farmer" means a farmer who owns not more than five acres of wet land or ten acres of partially wet and dry land or twenty five acres of dry land without assured rainfall and the area which has been identified as drought prone area by the appropriate Government without any limit of holding for agricultural or horticultural purposes;

(c) "fund" means the Farmers Old Age Pension Fund established under Section 4;

(d) "indebtedness" means an obligation to repay a loan taken by a farmer;

(e) "loan" means the amount of money taken or borrowed by a farmer on credit from Banks, Co-operative Banks and other Financial Institutions extending agricultural loan to farmers;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "total disablement" means such disablement whether of permanent or temporary nature which incapacitates a farmer for all work which he was capable of performing at the time of accident or occurrence of disease, as the case may be, which caused his disablement.

Old age pension farmers.

3. Notwithstanding anything contained in any other law for the time being in force, every farmer who has attained the age of sixty years or more or on becoming subject to total disablement as a result of an accident or disease, shall be paid a monthly pension which shall not be less than one thousand rupees and such pension shall be revisable according to the price index.

Establishment of Farmers Old Age Pension Fund.

4. (1) With effect from such date, as the Central Government may, by notification in the Official Gazette, specify in this behalf there shall be established a Fund to be known as the Farmers Old Age Pension Fund for the purposes of this Act.

(2) The Central Government shall after due appropriation made by Parliament by law in this behalf, credit to the Fund in each financial year such sums of money as it considers necessary for carrying out the purposes of this Act.

(3) The Fund shall be utilized by the Central Government in disbursing pension to old farmers through appropriate Government in such manner as may be prescribed.

Settlement of loans of the farmers.

5. Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall, by notification in the Official Gazette, direct all the Bank, Co-operative Banks and other Financial Institutions extending agricultural loans, falling under its jurisdiction to stop all recovery processes and to start financial settlement process in each case where loan has been taken by a farmer and who has not been able to repay the loan, and settle all such cases within six months from the date of such notification in the following manner, namely:—

(a) the loan amount shall be segregated in two parts, namely, the principal amount and the interest amount separately;

(b) simple interest shall be calculated on the principal amount from the date of drawal of the loan amount to the date of starting the settlement process straightway;

(c) the amount already paid back by the farmers shall first be adjusted against the principal amount and thereafter against the interest amount calculated in accordance with the procedure laid down in clause (b);

(d) the balance unpaid amount shall be divided into ten equal annual instalments without charging any interest thereon and shall be recovered every year but no legal

proceedings shall be initiated till the farmer defaults in payment for three years consecutively;

(e) the Banks and Financial Institutions from whom the farmer had taken the loan shall give concessions for refunding the loans if there is any natural calamity such as flood, drought, hailstorm, cyclone, super cyclone, tsunami, extreme cold condition, unseasonal rains, etc. and amount of such concessions given shall be reimbursed to the Institutions by the Central Government;

(f) the Banks and Financial Institutions shall charge the rate of interest in such a way that it does not exceed the rate of interest given by them on the savings deposited with them by the general investing public;

(g) in the final settlement of the loan ways and means shall be devised in such a way that the farmer is not required to pay more than forty per cent of the original principal amount by way of interest;

(h) if the farmer has made payment under clause (d) to the extent of fifty per cent of the instalments of unpaid loan, he shall automatically be considered as eligible for fresh loan.

6. Notwithstanding anything contained in any other law for the time being in force, the Banks and other financial institutions shall follow the following guidelines for giving fresh agriculture loans to the farmers, namely:—

Guidelines for
fresh loans to
farmers.

(a) they shall charge the same interest that is paid by them on savings deposited with them by the general investing public;

(b) in no case interest shall be calculated aggregately or separately on previous unpaid interest;

(c) in case of occurrence of natural calamity as confirmed by the administration of the State or Union Territory, as the case may be, instalments of loan for that year shall be written off treating it as bad debt and the amount so written off shall be reimbursed to them by the Central Government;

(d) the amount repaid by the farmer from time to time shall be adjusted against his instalment payable on the date and shall not in any case be adjusted against the interest amount so that the interest shall be calculated only on the remainder of the principal amount of the loan;

(e) lending to farmers by non-institutional lenders such as money lenders shall be strictly prohibited and any loan given by them shall be deemed to have been written off; and

(f) any other guideline which may be issued by the appropriate Government from time to time.

7. The Central Government shall provide requisite funds, after due appropriation made by Parliament by law in this behalf from time to time for carrying out the purposes of this Act.

Central
Government
to provide
funds.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of difficulty.

Power to
remove
difficulties.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law dealing with the subject-matter of this Act.

Act to have
overriding
effect.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

Farmer who grows foodgrains for the entire nation is also the backbone of our economy which depends mainly on the good crops reaped by the farmers in the country from time to time. The GDP growth to a great extent depends on the good harvest. But, unfortunately, the farmer always remains under heavy debt throughout his life and those farmers who are unable to withstand this burden end their lives committing suicide. The National Sample Survey Organisation (NSSO) in its survey report on "Indebtedness of Farmer Households" released in the month of May 2005 has estimated that 48.6 per cent of farmer households were indebted. The highest percentage of farmer households indebted was in Andhra Pradesh at 82 per cent followed by Tamil Nadu 74.5 per cent, Kerala 64.4 per cent, Karnataka 61.6 per cent and so on. Even in Punjab 65.4 per cent farmer households are indebted. The situation is not good in other States of the Indian Union. The local moneylenders who give loan on very exorbitant rates of interest exploit the farmers to the extent possible by all means including through their goons. The farmers also take loans from the Banks including Co-operative Banks and RRBs for agricultural purposes but despite their best intentions they cannot repay the loans and become defaulters and that happens mainly due to the failure of crops due to various natural calamities.

As a result, the indebtedness of farmers is a chronic and continuing problem which has to be resolved to save the precious lives of farmers.

When the farmer becomes old, he needs more care, medication and means to survive because of his inability to work in the fields. Similarly, if he meets with accidents he is incapacitated and requires means to survive. In a welfare State like ours the Government has to take care of the old as well as the incapacitated farmers by giving them pension. For this purpose, the Government can establish a Fund which can be utilized for giving pension to old and incapacitated farmers.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the old age pension to farmers. Clause 4 provides for the establishment of Farmers Old Age Pension Fund. Clause 5 (e) directs the Central Government to reimburse the amounts of concessions given to the farmers by Banks, etc. Clause 6 (c) also directs the Central Government to reimburse the written off amounts of Banks, etc. against the farmers and Clause 7 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of ten thousand crore rupees may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees five hundred crore is likely to be involved from consolidated fund of India for creation of Farmers Old Age Pension Fund.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

II

BILL NO. XVII OF 2007

A Bill to provide for the special educational facilities right from the primary to post graduation level including technical, medical and vocational education with hostel facilities, scholarships, gainful employment after completion of education for the dalit and tribal girls and for welfare measures like compulsory insurance, one time security bond, guidance and finance for self employment and such other measures and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Dalit and Tribal Girl Child (Special Educational Facilities and Welfare) Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "dalit girl child" means a girl child born in a family of a caste referred to in the Constitution (Scheduled Castes) Order 1950;

(c) "girl child" means a female human being below the age of eighteen years;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "tribal girl" means a girl child born in a family of a tribe referred to in the Constitution (Scheduled Tribes) Order, 1950.

National Plan
for special
educational
facilities for
dalit and tribal
girls.

3. (1) The Central Government shall, as soon as may be, formulate a national plan for providing special educational facilities compulsory to all the dalit and tribal girls throughout the nation in order to remove illiteracy amongst them and thereby prevent their exploitation in the society and bring self sufficiency, independence and awakening amongst such girl child.

(2) Without prejudice to the generality of the foregoing provisions, the plan may include,—

(a) survey of the total number of dalit and tribal girls of school going age in every district of the country;

(b) survey of pockets where literacy is very low amongst the dalit and tribal girls;

(c) survey of the socio-economic status of dalit and tribal girls and their families district wise;

(d) reasons for low literacy amongst the dalit and tribal girls in identified areas;

(e) suggest ways and means to eradicate illiteracy amongst the dalit and tribal girls and increase their level in the field of education;

(f) suggest reforms and penal actions against those who hinder the education of dalit and tribal girls including their parents who do not send such girls to schools and colleges for education or marry them off before attaining majority or exploit them on various counts.

Special
educational
facilities for
dalit and tribal
girls.

4. Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the appropriate Government to provide every dalit and tribal girl child the following special educational facilities, namely:—

(a) free and compulsory education including vocational, technical and medical education upto post graduation level or upto such level as the girl child desires to pursue;

(b) vocational training including computer training or her choice free of cost;

(c) necessary study materials such as books, note books, stationery, uniforms including shoes and socks, other instruments including personal computers wherever necessary free of cost;

(d) free hostel facilities wherever necessary;

(e) scholarships in deserving cases;

(f) free library facilities;

(g) free nutritious meals and medical care wherever necessary;

(h) such other facilities as may be prescribed.

5. The appropriate Government shall,—

(i) compulsorily insure the life of every dalit and tribal girl child for minimum of two lakh rupees and shall pay the premium amount thereon as and when due;

(ii) give on time fixed deposit or Bond of the value of not less than fifty thousand rupees to every dalit and tribal girl child in such manner as may be prescribed which shall mature when the girl child attains majority and payment thereof shall be made to her in such manner as may be prescribed;

(iii) provide gainful employment to every dalit and tribal girl after completion of her education or vocational training, as the case may be;

(iv) provide necessary guidance and finances to every dalit and tribal girl child desirous to start her own venture of self employment after her education or vocational training;

(v) initiate such other welfare measures for the dalit and tribal girl child as it may deem necessary and expedient for the overall development of such girl child.

Welfare measures to be undertaken by the State.

6. The appropriate Government shall establish such number of schools, colleges, Vocational Centres, Computer Training Institutes, hostels, libraries, etc. as it may deem necessary for carrying out the purposes of this Act.

Provisions of necessary infrastructure.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, from time to time, make available to the States and Union Territories the requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force giving benefits to the dalit and tribal girl child covered under this Act.

Act to Supplement other laws.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

In our society girl child is most unwanted in most of the families but the condition of a girl child born in dalit and tribal families is more awful and pathetic. Such girls grow up in abject poverty in slum areas or hamlets in villages or jungles with inhuman living conditions without basic necessities of life. Being always in a state of hand to mouth and majority of them struggling even for two square meals, education is a day dream for most of them. Necessities of hard life force them to work on fields as agricultural workers, in the homes as domestic maids, become rag pickers and many of them end up in brothels. They are married off at very tender age as they are considered as "*paraya dhan*" and it is customary in tribals that girls are married off before they attain puberty. Being illiterate they are exploited throughout their lives in one form or the other. It has rightly been said that if a girl is educated she will not let her generations to be illiterates. Hence every dalit and tribal girl child must get compulsory education, gainful employment and other opportunities for her over all development. In a welfare state like ours it is the duty of the state to take care of proper development of the girl child of socially oppressed classes of the society.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the special educational facilities for the dalit and tribal girls. Clause 5 provides for welfare measures. Clause 6 provides for necessary infrastructure. Clause 7 directs the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted and brought into force, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of around two thousand five hundred crore of rupees may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of seven thousand crore rupees may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

III

BILL NO. XVIII OF 2007

A Bill to provide for the due care, protection, welfare and rehabilitation measures to be initiated by the Central and State Governments for the underprivileged street children most of whom are orphan or vagabond or whose parents are pavement dwellers, beggars or petty criminals and most of such children who subsist on rag picking from garbage dumps and other dirty places thereby endangering their health and lives or on begging or committing petty crimes like pick pocketing, stealing-snatching, drug peddling etc. through education, guidance and other means and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Orphan, Exploited and Underprivileged Street Children (Care Protection and Welfare) Act, 2007.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) "child" means a boy or girl who has not attained the age of eighteen years;

(c) "orphan or street children" means the deprived and underprivileged children with unknown parentage, abandoned, vagabond or loitering, rag picking and neglected children including the destitute and exploited children of pavement dwellers, beggars, sex workers, women jail inmates, mentally retarded women who subsist on rag picking, begging or petty offences;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Special Care Homes" means an institution or home either established or certified as such by the appropriate Government under section 5.

National
Policy for
orphan
exploited and
underprivi-
leged street
children.

Salient
features of
the policy.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, formulate a National Policy for Orphan, Exploited and Underprivileged Street children to secure them all rights of childhood which are necessary for their proper growth to become responsible citizens.

(2) Without prejudice to the generality of the foregoing provisions, the National Policy may include the following various measures for the children covered under this Act, namely:—

(a) the withdrawal of such children from their subsistence on rag picking, begging or petty crimes by providing suitable rehabilitation measures for such unfortunate children in such manner as may be prescribed;

(b) board, lodging and other necessary facilities for such children;

(c) free educational facilities including medical and technical education and vocational training and facilities for developing character and abilities to become independent in life;

(d) employment opportunities after completion of their education or vocational training, as the case may be;

(e) such other measures as may be felt necessary for the over all rehabilitation and welfare of such children.

District-wise
Register of
orphan and
underprivileged
street children.

Establishment
of Special
Care Home.

4. It shall be the duty of the appropriate Government to maintain a district wise Register of all orphan, exploited and underprivileged street children with such particulars and in such manner as may be prescribed.

5. (1) The appropriate Government shall establish or cause to be established such number of Special Care Homes as it may deem necessary for carrying out the purposes of this Act for free of cost board and lodging of the children covered under this Act.

(2) The facilities to be provided free of cost at the Special Care Homes shall be such as may be prescribed.

(3) Where the appropriate Government is satisfied that any institution managed by a Non-Governmental Organization (NGO) is fit enough for the purposes of this Act, it may certify such institution as a fit institution for the reception of the children covered under this Act.

(4) Every Special Care Home or institution of NGO certified under this Act, apart from providing board, lodging and maintenance shall also provide facilities for education, vocational training, development of character and abilities and such other facilities as may be prescribed to ensure all round growth and development of personality of the children.

Schools and
facilities.

6. (1) The appropriate Government shall open sufficient number of schools and other institutes near the Special Care Homes for imparting education or vocational training free of cost to the children covered under this Act.

(2) The children attending schools or institutes referred to in sub-section (1) shall be provided with books, writing materials, clothes including uniforms and other relevant articles free of cost by the appropriate Government.

7. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall take custody of every child who is orphan with unknown parentage or abandoned one, vagabond, destitute, beggar or petty criminal or such children identified by such Government in such manner as may be prescribed.

Custody of children in certain cases.

(2) Every child taken custody of under sub-section (1) shall be sent to Special Care Homes or Institution of any NGO certified by the appropriate Government in such manner as may be prescribed.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, from time to time, provide requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

9. Whoever,—

Penalty.

(a) forces any child governed by the provisions of this Act to beg shall be punishable with imprisonment which shall not be less than three years but may extend to five years and also with fine which may extend to two lakh rupees;

(b) sexually exploits any child governed by the provisions of this Act shall be punishable with life imprisonment and also with fine which shall not be less than two lakh rupees but may extend to five lakh rupees.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable for the welfare of the street children.

Act to have overriding effect.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There are millions of hapless children, born to poor people, some of them are orphans or children of unknown parentage or have been abandoned by their parents or near and dear ones. These deprived and underprivileged children can be seen loitering, collecting waste papers, plastic materials and metal scraps from the dumping pits or indulging in begging or committing petty crimes in different places particularly in the metropolitan and other cities and urban areas of our vast country. These children live in streets or pavements either alone or with their poor parents. Most of them subsist on rag picking, begging, indulging in petty crimes like stealing, pick pocketing, gambling, etc. Many of them are forced to do these activities by their parents to get additional income. They work under pathetic and unhygienic conditions and fall prey to all kinds of dreaded diseases right from skin diseases to respiratory diseases like TB, and other dreaded diseases like cancer, asthma, bronchitis, hepatitis and even AIDS. These children are generally exploited by anti-social elements both physically and economically and they, many a time, are not spared even by policemen. As a result, when they grow up most of them become criminals. The girl child falling in this category is generally, sexually exploited and ultimately pushed into the flesh trade. This serious issue is not only a socio-economic issue but the hapless children involved are very young and have a lot of active life ahead. Many of them have the talent and ability to become doctors, engineers and good administrators and technocrats which goes waste in the streets. It is, therefore, necessary that the human resource development issue needs to be addressed to rehabilitate these unfortunate children to bring them to the national mainstream because they are our future citizens and society has to make them good and responsible citizens for which they must grow in proper atmosphere and get good education, care and facilities.

A welfare State like our should ensure that all the children including the orphans and street children must enjoy their childhood and they are given every opportunity to fully develop their potential to grow as responsible citizens.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of Special Care Homes. Clause 6 provides for the establishment of schools and facilities to be provided therein. Clause 8 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill if enacted and brought into force will involve expenditure from the Consolidated Fund of India. At this stage it is difficult to assess the actual quantum of funds likely to be involved but it is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees two thousand crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

IV

BILL NO. XXXIII OF 2007.

A Bill to provide for the protection of women from discrimination, sexual exploitation and for the basic facilities like creches, recreational facilities, maternity benefits, hostel and transport facilities, etc. and for the welfare measures to be taken by the employers and the State for the women employees working in government establishments, public sector enterprises including banks and ports, educational institutions including universities, colleges and schools, factories, mines, plantations, agricultural fields, orchards and such other places and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Working Women (Protection, Basic Facilities and Welfare) Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "child" includes a still born child;

(c) "employer" means,—

(i) in relation to an establishment which is under the control of an appropriate government, the person or authority appointed by the appropriate government for the supervision and control of the employees or where no person or authority is so appointed, the head of the establishment;

(ii) in relation to an establishment under any local self-government or authority, the person appointed by such authority or local self-government for the supervision and control of the employees or where no person is so appointed the Chief Executive Officer by whatever name called of the local self-government or the authority as the case may be;

(iii) in other cases, the person who or the authority which has the ultimate control over the affairs of the establishment;

(d) "establishment" include an office of the appropriate government, quasi government or department including telegraph office, post office, telephone exchange etc., a mine, a plantation, an agricultural field, a hospital or nursing home, a shop or any business establishment, a brick kiln, construction site, any banking establishment, any private office or house, any school college, university or like institution, establishment for the exhibition of equestrian, acrobatic and other performances and any other such place where a woman is employed for any work whatsoever;

(e) "factory" means a factory as defined in the Factories Act, 1948;

63 of 1948.

(f) "industry" means an industry as defined in the Industrial Disputes Act, 1947;

14 of 1947.

(g) "prescribed" means prescribed by rules made under this Act;

(h) "sexual harassment" includes any unwanted verbal or gestural sexual advances, sexually explicit and derogatory statements or remarks, avoidable physical contacts, touching or patting, suggestive remarks, sexually slanted and obscene jokes, comments about physical appearance, compromising invitations, use or showing pornographic material, demands for sexual favours, threats, innuendos, physical assault and molestation of and towards working women by their male superiors, colleagues or any one who for the time being is in a position to sexually harass the working women;

(i) "working woman" means a woman who is employed, whether directly or through any agency or contractor, as the case may be, for wages or similar other considerations in any establishment, factory or industry.

3. It shall be the duty of the appropriate government to ensure that no discrimination is done by any establishment on gender basis with its women employees particularly in the matter of payment of wages which are paid to her male counterpart in such establishment.

4. (1) Notwithstanding anything contained in any other law for the time being in force, every employer shall provide basic childcare and facilities essential for the children of women workers in his establishment with provision of minimum needs like milk, tiffin, clothes, toys and trained *ayahs* to look after children of women working therein.

Appropriate government to ensure non-discrimination and equal wages for the working women.

Childcare facilities.

(2) The appropriate government shall ensure that every employer of an agricultural field provides mobile childcare facilities for the working women in his establishment:

Provided that two or more of such employers may provide such childcare facilities collectively for their establishments.

(3) The appropriate government shall open such number of creches at such places as it may deem necessary for carrying out the purposes of this Act.

5. The appropriate government shall ensure that every employer provides retiring rooms with facilities like bathroom, latrine, drinking water at the workplace or worksite of the working women and also provide recreational facilities like radio, television, etc. for them and their children.

Recreational facilities.

6. The appropriate government along with the employer shall provide adequate and proper security measures for the safety of working women in the establishment, factory or industry, as the case may be, as well as to and from their places of residence.

Security arrangements.

7. It shall be the duty of the appropriate government to ensure reservation of beds and proper and adequate maternity facilities for the working women in hospitals and dispensaries having indoor patient facilities therein.

Maternity facilities.

8. The appropriate government as well as an employer shall provide hostel and residential facilities both for married and unmarried working women nearest to their place of work and shall also provide cheap, safe and quick transport facilities for such working women.

Hostel and transport facilities.

9. The appropriate government shall ensure protection from health hazards particularly for the women working in factories or industries like beedi, tobacco, stone mines, cashew, fish processing, salt, silk, construction projects and such other establishments as may be prescribed.

Protection from health hazards.

10. (1) The appropriate government shall maintain a register of working women in such manner and at such place as may be prescribed;

Register of working women.

(2) The appropriate government may require an employer to furnish for the purposes of this Act, such statistical and other information, in such form and within such period as may be prescribed.

11. (1) The sexual harassment of any working woman in any manner whatsoever at her work place is hereby prohibited.

Prohibition of sexual harassment of working women.

(2) Whoever contravenes provisions of sub-section (1) shall be guilty of an offence under this Act.

12. Notwithstanding anything contained in any other law for the time being in force, whoever sexually harasses a working woman in any establishment, factory or industry shall be punishable with imprisonment for a term which shall not be less than five years but may extend to seven years and also with fine which may extend to five lakh rupees.

Penalty.

13. Notwithstanding anything contained in any other law for the time being in force the onus of proving innocence shall be on the accused and the sexually harassed woman shall have the right to plead evidence in rebuttal.

Burden of proof.

14. The case of a sexually harassed woman worker at a work place shall be pleaded either by herself or with her consent by a woman's organization or the trade union of which she is a member, as the case may be.

Pleading of the case.

15. The trial of an offence under this Act shall be held in camera if the harassed woman so desires.

Trial to be held in camera.

39534.09.9.

Act to have
overriding
effect.

Power to
make rules.

16. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the working women.

17. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Despite the unabated female foeticides and dwindling population of girls in the country and the conservative attitude of the society towards women, more and more women are venturing out of their houses to work to support their families. As a result the number of working women in government services, factories, industries, commercial establishments, agriculture, mines, fish processing sector, silk industry and so on so forth is increasing day by day, but their conditions of employment need amelioration. Various basic and essential facilities which are supposed to be made available to the working women by the government and private employers are either absent or not adequate and satisfactory. Unfortunately, in most of the private sector including agricultural sector, the facilities are rather minimal or negligible and the working women are an exploited lot there. The existing labour laws also do not provide for proper medical, educational, recreational and other facilities for the working women and their children. As regards security, transport, accommodation and facilities for some specific problems which are peculiar to women only are concerned, no enactment has been made so far. In many establishments they are not given equal pay for equal work. This discrimination has to be stopped.

Of late, cases of sexual harassment of working women are also on the rise. Cases of sexual harassment of women at the work places occur but more often these are not reported for fear of social ostracism, family pressure or reprisal in the form of threats and discriminatory treatment. Recently, Supreme Court of India in the case of *Vishakha and Others Vs. State of Rajasthan and Others* has taken a very serious view on the sexual harassment of working women at their work places and laid down norms and guidelines to be followed by the employers but even these guidelines are not being followed in letter and spirit.

Hence it has become necessary to provide adequate welfare measures for the working women.

Hence this Bill.

SANTOSH BAGRODIA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for childcare facilities, whereas clause 5 for recreational facilities and clause 7 for maternity facilities. Similarly clause 8 provides for hostel and transport facilities for the working women. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of Rs. two thousand crores may involve as recurring expenditure per annum.

A sum of Rs. five thousand crores may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

V

BILL NO. XXXIV OF 2007

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title and
Commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2007.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of
new article
16A.

2. After article 16 of the Constitution, the following article shall be inserted, namely:—

Right to work
and
unemployment
allowance

“16A. (1) Every citizen who is a major and needs work as a mean of livelihood shall have the right to get employment from the State as per his ability, qualifications and physical condition.

(2) In the event of failure of the State to provide any employment to the desirous citizen, he shall be given unemployment allowance till he is provided with gainful employment by the State.

(3) For the purposes of clause (2), Parliament may by law, provide for different rates of unemployment allowances for illiterate, Primary and Middle passed, Matriculation, Senior Secondary passed, Graduates, Post Graduates, professionally qualified ones, physically challenged citizens and others."

3. For article 41 of the Constitution, the following article shall be substituted, namely:—

Substitution of
new article for
article 41.

"41. The State shall within the limits of its economic capacity and development, make effective provision for securing the right to education and to public assistance in cases of old age, sickness and disablement, and in other cases of undeserved want."

Right to
education and
to public
assistance in
certain cases.

3953-4-07/3.

STATEMENT OF OBJECTS AND REASONS

There are millions of unemployed youth in every nook and corner of our vast country comprising illiterates, matriculates, graduates, post graduates and professionals and technocrats, etc. On the other hand employment opportunities are decreasing day by day. As a result if there are vacancies of ten posts, more than a lakh youth will apply for the posts. In the recent past country has witnessed stampedes and firings at recruitment places outside the Employment Exchanges and examination centres. The grim unemployment scenario has caused frustration among the youth who are being lured by anti social and anti national elements and leading to many undesirable and unsolicited consequences like social unrest, violence, terrorism, crimes and serious erosion of ethical and moral values in the society. It has rightly been said that in our political democracy right to life and liberty are meaningless without the right to livelihood, which wholly depends on right to work. But this is not a fundamental right in our Constitution. The phrase right to work and public assistance in cases of unemployment is there in article 41 of the Constitution but it is merely a directive principle of State policy which is not enforceable in the Court of law. Now the time has come to make the right to work and unemployment allowance as fundamental right of the citizens.

Hence this Bill.

SANTOSH BAGRODIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for fundamental right to work and unemployment allowance if the State fails to provide employment to the citizens. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the exact expenditure at this stage but it is estimated that a sum of rupees thirty thousand crores may involve as recurring expenditure per annum.

A non recurring expenditure to the tune of one thousand crore rupees may also involve from the Consolidated Fund of India.

VI

BILL NO. XLIV OF 2007

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2007.

Short title and
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
21B.

“21B. Every citizen shall be given protection of his property and business by the State against ethnic and social violence and communal and political disturbances”.

Right to
Protection of
property and
business.

(2) If any citizen is deprived of his property and business due to any reason mentioned in clause(1), the State shall ensure that adequate compensation is given to him and proper arrangements are made for his rehabilitation and livelihood as soon as possible but not later than thirty days from the date of the occurrence of the incident”.

STATEMENT OF OBJECTS AND REASONS

Article 21 of the Constitution provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. But recently, it has been seen that there is an upswing in the incidents of ethnic violence and communal and political disturbances in different parts of the country, which have resulted in heavy losses to the property and business of the citizens.

It has also been seen that sometimes, the victims are not given sufficient relief in terms of compensation and rehabilitation and they are also deprived of proper livelihood. It is the responsibility of the State to protect its citizens from such violence and disturbances which result in the loss of property and business.

Hence, the Bill seeks to amend the Constitution so that it becomes mandatory for the State to protect the citizens from violent incidents and also to ensure rehabilitation and compensation for the affected victims within the stipulated time.

Hence, this Bill.

JAI PARKASH AGGARWAL

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the State would ensure compensation and rehabilitation for victims of ethnic and social violence and communal and political disturbances within the stipulated time. Since, it is extremely difficult to foresee such incidents and assess the loss that may be suffered in such incidents, no actual estimate of the expenditure can be made at this point of time. However, it is estimated that approximately a sum of rupees seven hundred crore will involve as recurring expenditure per annum to meet such relief work, which would be taken from the Consolidated Fund of India.

However, no non-recurring expenditure of any kind is likely to be incurred on it.

VII

BILL NO. XLII OF 2007

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2007. Short title and commencement.
(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.
2. After article 16 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 16A.

“16A (1) Every citizen, whose name is registered with the employment exchange established by the State, shall have the right to employment. Right to Employment.

(2) Every citizen, who has not been provided employment through employment exchange, shall be given unemployment allowance by the State at the rate of rupees two thousand per month till he is provided with an employment”.

39534.9/5.

STATEMENT OF OBJECTS AND REASONS

The potential and talent of all the youths in our country, whose names are registered with the employment exchanges, can be fully utilized by providing them suitable employment. If we could utilize the complete manpower of our country, we can become more prosperous and developed.

The aspiration of the people of our country is that every youth should have an employment. But even after more than 50 years of independence, the number of unemployed youths registered with the employment exchanges is very high. All the unemployed youths registered with all the employment exchanges in the country should be given an unemployment allowance till they are provided employment through these employment exchanges. The right to employment should be made a fundamental right in order to achieve the socialistic objective of the Constitution.

The Bill seeks to achieve this objective.

JAI PARKASH AGGARWAL

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that all the citizens registered with employment exchanges shall have the right to employment. The Bill also provides that every citizen, whose name is registered with an employment exchange but has not been provided employment, shall be given unemployment allowance at the rate of rupees two thousand per month.

Thus, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India in order to extend grant-in-aid to the union territories and states to meet the total expenditure incurred by them in this regard. It is estimated that a sum of rupees 100 crore per annum will be incurred as recurring expenditure from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of rupees seven crore.

VIII

BILL No. XLIII OF 2007

A Bill to provide for a comprehensive policy for the welfare and development of youths in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Youth Welfare Act, 2007.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate government” means in the case of a state, the Government of that State and in other cases, the Central Government.

(b) "youth" means all persons who are between the age-group of fifteen and thirty two years.

(c) "youth organization" means any organization that provides for a universal membership to youths without any discrimination on the grounds of origin, religion, language, caste, creed or sex and a democratic functioning in the concerned states and union territories, as the case may be, in its constitution.

Comprehensive
national
policy for
youth.

3. The appropriate government shall formulate a comprehensive national Policy for development and welfare of youths in the country which shall *inter-alia* provide for:—

(a) compulsory and free education including technical education;

(b) books, stationery, uniform, etc. free of cost;

(c) free hostel facilities;

(d) scholarship to meritorious and deserving students;

(e) free transport facilities;

(f) pocket expense allowance at the rate of rupees two hundred to rupees two hundred fifty per month according to the age of the youth;

(g) free entertainment facilities;

(h) free access to all libraries and technical institutions to every eligible youth;

(i) training in sports to every eligible youth and facilities to participate in sports activities in and outside the country;

(j) representation of youth organization in sports tournaments; and

(k) such other lifetime facilities for the welfare of those youths who have represented the country in sports.

Free nutritious
meals to
students in
educational
institutions.

4. The appropriate government shall provide free nutritious meals to all the students in schools, colleges, universities, hostels and technical institutions.

Free medical
and health care
to youths.

5. The appropriate government shall provide free medical and health care to youths in the country in such manner as may be prescribed.

Apprentice
training to
youth.

6. The appropriate government shall formulate a scheme under which every eligible youth shall be provided with modern apprenticeship training in business, trade, etc. in factories and commercial institutions.

Expert
Committee.

7. The appropriate government shall appoint an expert committee in the capital of every state and union territory and in every district of the country comprising renowned educationists and psychologists who will recommend such education or training as is related to some trade, to be imparted to the youth of the district after qualifying secondary school examination.

Military
training to
youths.

8. The Central Government shall provide military training to all the youths, who are physically fit and the youths successfully completing their training shall be given preference in employment in defence services.

Unemployment
allowance.

9. The appropriate government shall provide employment to the youths as per their ability and qualification after completing their education and training or provide to them unemployment allowance, at such rate as may be prescribed by the Central Government, until they are given employment.

Power to
make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Even after so many years of independence, no clear-cut youth policy has been framed in our country. The education should be the right of each and every youth instead of being a privilege of a few people. They should be given a guarantee of employment. The youth should be linked directly with the production work. The disparity between the rural and urban youths should gradually be removed. Today, the youths are facing serious health related problems and there is an acute shortage of sports facilities and cultural activities. A large number of youths in the society are still suffering from poverty. A proper policy should be prepared for their overall development and for a proper utilization of their strength and education. For this, it is necessary that a comprehensive youth policy be formulated for the overall development of the youths.

Hence this Bill.

JAI PARKASH AGGARWAL

FINANCIAL MEMORANDUM

Clauses 3 and 4 of the Bill provides for compulsory and free education, books, writing materials, uniform, etc. free of cost and the pocket expense allowance to all the youths. It also provides for the facilities of free hostel, free transport and scholarship to the youths, facilities to the youths for their participation in sports activities and also provide free nutritious food to all the students in schools, colleges, universities and hostels. Clause 6 provides that the appropriate government shall provide health and medical care to all youths and formulate such a policy under which youths shall be given training in factories and professional institutions. Clause 7 provides that an expert committee shall be appointed which would recommend the quality of education that should be given to the youths. Clauses 8 and 9 provide that all physically fit youths should be given military training and all youths should be given employment, or unemployment allowance, as prescribed, till he or she gets an employment.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India in case of Union Territories. The State governments would meet the expenditure for their states from their respective Consolidated Funds and the Central Government shall also extend help in this regard. It is estimated that this would involve a sum of rupees three hundred crore per annum as recurring expenditure and a sum of rupees seven crore as non-recurring expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for the purposes of this Bill. Since the rules relate to matters of details only, the delegation of legislative power is of a normal character.

39534.4.9.

IX

BILL NO. XLVIII OF 2007

A Bill to provide for the care, protection, financial assistance, rehabilitation and welfare of widows and old women who are destitute, abandoned by their kith and kin and neglected and left to fend for themselves in the society by the State and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Destitute, Abandoned and Neglected Widows and Old Women (Welfare and Rehabilitation) Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a States, the Government of that State and in other cases, the Central Government;

Short title,
extent and
commencement.

Definitions.

(b) "authority" means the Destitute, Abandoned and Neglected Widows and Old Women Welfare Authority established under this Act;

(c) "destitute woman" means any old woman or widow who lives uncared for and has become infirm due to old age or chronic ailment, physical deformity or mental imbalance and has no independent and adequate means of livelihood for her subsistence;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "widow" means a female citizen who has attained the age of eighteen years and whose husband has died after her legal marriage.

3. (1) The Central Government shall, as soon as may be, but within six months of the commencement of this Act, by notification in the Official Gazette, establish the Destitute, Abandoned and Neglected Widows and Old Women Welfare Authority for carrying out the purposes of this Act.

Establishment
of Destitute,
Abandoned
and Neglected
Widows and
Old Women
Welfare
Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

(3) The Headquarter of the Authority shall be at Ahmedabad in the State of Gujarat.

(4) The Authority shall establish its branches in all the States and Union Territories at such conspicuous places as the authority may deem fit and necessary.

(5) The Authority shall consist of,—

(a) the Minister-in-charge of the Union Ministry of Women and Child Development who shall be *ex-officio* Chairperson of the Authority;

(b) a Vice-Chairperson preferably a woman with such qualifications and experience, as may be prescribed, to be appointed by the Central Government;

(c) three Members of Parliament of whom two shall be from the Lok Sabha and one from the Rajya Sabha to be nominated by the Presiding Officers of each House;

(d) four members representing the Union Ministries of Human Resource Development, Social Justice and Empowerment, Finance and Home Affairs;

(e) not more than five members to be appointed by the Central Government in consultation with the Governments of the States, by rotation in alphabetical order, to represent the Governments of the States;

(f) three members to be appointed by the Central Government from amongst the Non-Governmental Organizations working for destitute, neglected and abandoned women and widows.

(6) The Authority shall follow such procedure for holding its meetings and the quorum for such meetings shall be such as may be prescribed.

(7) The Authority shall have a Secretariat consisting of such offices, employees and establishment with such conditions of service, emoluments and perks as may be prescribed and determined from time to time for the efficient functioning of the Secretariat of the Authority.

4. (1) It shall be the duty of the Authority to promote by such measures as it thinks fit, appropriate or necessary, welfare and rehabilitation measures for the destitute, abandoned and neglected widows and old women languishing all over the country.

Functions of
the Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1) the Authority shall,—

(a) maintain district-wise register of the destitute, abandoned and neglected widows and old women who are to be rehabilitated and are in need of assistance from the Authority with such details and in such manner as may be prescribed;

(b) work out various plans and formulate schemes for the welfare and rehabilitation of the destitute, abandoned and neglected widows and old women covered under this Act;

(c) conduct a survey of the old and infirm *Bhajan* chanting widows at religious places at Mathura, Vrindavan, etc. in Uttar Pradesh and other parts of the country and formulate a special rehabilitation scheme for such old widows in such manner as may be prescribed;

(d) give wide publicity through the electronic and print media about the welfare measures being undertaken by the Authority;

(e) perform such other functions not inconsistent with the provisions of this Act, as may be assigned to it by the appropriate government from time to time.

5. The appropriate Government shall, on the recommendations of the Authority, provide the destitute, abandoned and neglected widows and old women covered under this Act, the following facilities, namely:—

(a) monthly subsistence allowance of not less than rupees two thousand, if the widow or the woman is having any dependent children and not less than rupees one thousand five hundred in case she has no dependent child;

(b) residential accommodation free of cost wherever necessary;

(c) free education including technical, medical and vocational education to dependent children;

(d) free medical care with medicines;

(e) gainful employment as per the physical conditions;

(f) free vocational training wherever necessary;

(g) assistance for rehabilitation like self-employment, etc.

(h) such other facilities, as may be necessary for her welfare, rehabilitation, proper development and for maintaining respectable life in the society:

Provided that if any woman covered under this Act either gets gainful employment or remarries, all the facilities which may be provided to her and her dependent children under this Act shall be withdrawn from the date she gets the gainful employment or her remarriage, as the case may be.

6. (1) The appropriate Government shall establish such number of Old Women Homes at conspicuous places as it may deem necessary for boarding and lodging of infirm and needy old women including widows in such Homes with necessary facilities of daily life for residents.

(2) The appropriate Government shall also provide free medical aid and means of entertainment to the inhabitants of such Homes.

(3) The old widows and women lodged in these Homes shall not be entitled to subsistence allowance under this Act.

7. The Central Government shall provide, from time to time, after due appropriation made by Parliament, by law in this behalf,—

(a) adequate funds to the States and Union Territories for carrying out the purposes of this Act; and

Facilities to the destitute, abandoned and neglected widows and old women.

Establishment of Old Women Homes.

Central Govt. to provide funds.

(b) adequate funds to the Authority for carrying out the purposes of this Act and for its administrative expenses.

8. The Authority shall submit an annual report in such form and in such manner, as may be prescribed, of its activities in implementing the provisions of this Act to the President of India who shall cause the Report to be laid before both the Houses of Parliament along with action taken thereon by the Central Government as soon as it is received.

Annual
Report of the
Authority.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

Power to
remove
difficulty.

10. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the widows and old women covered under this Act.

Act to have
overriding
effect.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

Ours is a vast country and there is a very large number of widows and other destitute old women particularly hailing from lower and middle-income groups who live uncared for and neglected in the society. Most of the widows become destitute after the death of their husbands who do not leave adult sons behind them to look after their mother. Their condition becomes more miserable if they do not have a roof over their head and means of livelihood. The old women mostly widows are stricken with infirmity mainly due to old age or physical deformity or serious and prolonged ailment or mental imbalance and they are abandoned and neglected by their families and have to lead a lonely and miserable life without any means of livelihood. They mainly subsist on begging but many a time their physical condition does not allow them even to beg putting a question mark on their survival itself. Majority of widows do not have means to support themselves and their dependent children. People on the pretext of helping them try to exploit them in many ways and many times they are forced into flesh trade. Even their near and dear ones do not hesitate in ill-treating them. Ultimately for their survival, they work as housemaids, beg and many a time end up in brothels.

In a welfare State like ours it is the primary duty of the Central and State Governments to take care of the destitute, abandoned and neglected widows and old women of the society by extending financial assistance for their subsistence and other facilities to enable them to live a dignified life in the society. For this an Authority should be established to concentrate on the welfare and rehabilitation of destitute, abandoned and neglected widows and old women of the society.

Hence this Bill.

ALKA BALRAM KSHATRIYA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Destitute, Abandoned and Neglected Widows and Old Women Welfare Authority. Clause 5 provides that the appropriate Government shall provide various facilities to destitute, abandoned and neglected widows and old women. Clause 6 provides for establishment of old Women Homes. Clause 7 of the Bill makes it obligatory for the Central Government to provide adequate funds to the Authority, States and Union Territories. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of rupees one thousand five hundred crore may also involve in creating infrastructure for the purposes of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

X**BILL No. L OF 2007**

A Bill to provide for a common and uniform system and syllabus for the school education in the country for removing the disparities and the tag of difference between the Government schools meant for the children of common people and the public schools meant for the children of affluent ones of the society in order to achieve national integration and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the School Education (Removal of Disparities between Government and Private Schools through Uniform System and Syllabus) Act, 2007.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "prescribed" means prescribed by rules made under this Act.

Common and uniform system and syllabus for school education.

3. (1) Notwithstanding anything contained in any other law for the time being in force,—

(a) there shall be no public school and Government school pattern in any form whatsoever in the school education;

(b) there shall be a common and uniform system of education and common syllabus for the school education for all the school going children in the country as may be planned and worked out by the Central Government in consultation with the Governments of the States; and

(c) all the schools whether run by the Central or the State Governments or by any Government or by any organisation whether private or religious or any individual or group of individuals or trusts or by whomsoever on public school pattern or any other pattern shall be integrated with common and uniform system of school education and shall have common syllabus and shall impart education on the same pattern and conditions including standard of education prescribed by the Central Government from time to time under this Act.

Derecognition of certificates in certain cases.

4. If any school imparts different pattern of education other than the one prescribed under this Act, the appropriate Government in whose territorial jurisdiction such a school is located shall derecognise such school and all educational certificates awarded by such a school shall not be valid for any purpose, whatsoever, in such manner as may be prescribed.

Power to make rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

School education lays the foundation of the career of every person and that is why the parents of every child want to admit their child in a best school so that the child gets best of education. But, unfortunately, there is a visible contrast in our school education system. On the one hand, we have Government run *Sarkari* or *Nagar-Nigam* schools meant for the children of lesser gods or belonging to poor or common families which do not have the requisite infrastructure let alone the facilities required for the children of tender age attending these schools but on the other hand, we have special schools, popularly known as public or Convent schools, meant for the children of affluent and privileged classes where only the children of rich and aristocrats who can afford blank bank cheques or huge donations and fees can get admission and pursue studies. There are also private schools run by organisations or individuals whose main objective is to earn money by running these schools on commercial lines. It is a fact that the children studying in Government schools end up in clerical and less important jobs whereas the children studying in public schools corner all the top administrative jobs in Government and Corporate entities and get admissions in the Engineering, medical, management and other technical institutes of repute. This clear cut division has created a complex in the minds of children studying in Government schools and they feel neglected in the society.

In a socialist democratic polity like ours, uniformity in the education system has become necessary in order to create the sense of national integration in the highly sensitive and impressionable minds of the children. It has therefore become necessary to have common and uniform system of education with common syllabus in all the schools of the nation which will remove the complex of poor and inferiority from the children of common families.

Hence this Bill.

ALKA BALRAM KSHATRIYA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only.

The delegation of legislative power is of normal character.

3953 & d. 9.

XI

BILL NO. XLIX OF 2007

A Bill to provide for promoting small family by eligible couples through family planning measures by the State in the form of incentives and disincentives so that the population growth which has crossed one billion mark is effectively controlled to make it commensurate with country's economic and social development as well as with the ecological balance and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commencement

1. (1) This Act may be called the Small Family Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "prescribed" means prescribed by rules made under this Act.

3. It is hereby declared that the provisions of this Act are for the purpose of giving effect to the policy of the State towards securing the principles envisaged in articles 38, 39 and 47 of the Constitution of India.

Declaration as Policy of the State.

4. The appropriate Government shall promote small family norm amongst the eligible couples residing within its territorial jurisdiction consisting of not more than two children and adopt such measures as may be necessary and expedient to achieve the norm.

Promotion of small family norm.

5. (1) Every eligible married couple who does not procreate any child shall be given following incentives by the appropriate Government, namely:—

Incentives for small family norm.

(a) an appropriate dwelling house free of cost;

(b) one time out of turn promotion to either of the spouse who is a Government employee;

(c) free medical care, pension, food and shelter in their old age in such manner as may be prescribed.

(2) Every eligible married couple who procreate and has only one child and if either of the spouse voluntarily undergoes sterilization for adopting small family norm shall be given the following incentives by the appropriate Government, namely:—

(a) an appropriate dwelling house at subsidized or concessional rates;

(b) one time out of turn promotion to either of the spouse who is a Government employee;

(c) free education including technical, medical and vocational education;

(d) one time such cash reward as may be prescribed;

(e) employment to the child after completion of his or her education, as the case may be.

(3) Every eligible married couple having two living children and if either of the spouse voluntarily undergoes sterilization for adopting small family norm shall be given the following incentives or facilities by the appropriate Government, namely:—

(a) free education to the children at the level they desire to pursue and the stream chosen by each of them;

(b) preference in job to the children after completion of their education;

(c) four additional increments to the Government employees and one time cash reward of twenty thousand rupees to those who are not Government employees;

(d) priority allotment of dwelling unit under housing schemes floated by the appropriate Government;

(e) such other incentives and facilities as the appropriate Government may deem necessary.

6. Notwithstanding anything contained in any other law for the time being in force, any person who procreates more than two children after one year from the commencement of this Act shall not be entitled and shall be denied the following facilities, namely:—

Disincentives.

(a) all benefits under the Public Distribution System including subsidized kerosene, LPG and such other commodities;

(b) house from a housing scheme floated by the appropriate Government or its agencies;

(c) free maternity and other medical facilities from any Government hospital, dispensary, medical centre, etc.

(d) loan facility from any public sector bank or financial institution;

(e) such other facilities as may be prescribed.

Two child norm for the Government employees.

7. Every Government employee including Public Sector Enterprises, Semi Government, local Government or autonomous body, educational institutions from school to university levels, banks, ports or any organization funded by the appropriate bank in any manner, shall compulsorily follow two child norm and whoever procreates more than two children shall not be eligible for any further increment and promotion to higher post during the entire tenure of his service:

Provided that the provision of this section shall not apply to an employee who has more than two living children on the date of commencement of this Act.

Disqualification for being elected as the representative of the people.

8. Notwithstanding anything contained in any other law for the time being in force, any citizen who has more than two living children shall be disqualified for being chosen as the representative of the people to either House of Parliament or of the State Legislature or a local body, as the case may be:

Provided that the provisions of this Section shall not apply in case of a citizen having more than two living children on the date of commencement of this Act.

Age of marriage.

9. Notwithstanding anything contained in any other law for the time being in force, no marriage shall be solemnized between a male who is less than twenty-five years of age and a female who is less than twenty-one years of age and any marriage solemnized in contravention of the provisions of this section shall be void.

Population control as a subject of studies.

10. It shall be the duty of the appropriate Government to introduce population control as a compulsory subject in all the educational institutions within its territorial jurisdiction.

Power to issue directions.

11. The Central Government may give such directions to any State Government to be necessary for carrying into execution in the State any of the provisions of this Act.

Central Government to provide funds.

12. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the States and Union Territories for carrying out the purposes of this Act.

Act to have overriding effect.

13. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Ours is the most populous nation after our neighbour China as we have already crossed the one billion mark and if the present boom continues, China will be left far behind of our country within a decade or two. It is a matter of grave concern that having only 2.4 per cent of global land area, our country has more than 20 per cent of world population. This has made our nation one of the most densely populated nations of the globe. This is compelling the major chunk of our population to live in slums and under squalid conditions. To accommodate the future needs and the numbers within the nations, natural capabilities and resources have given rise to unparalleled transformation of human values, social institutions and economic structures. Overcrowding of population has resulted in deterioration of law and order throughout the country, unemployment is rising menacingly causing widespread unrest among the unemployed youth who are being lured by anti-social and anti-national elements for their nefarious activities and the gap between the haves and have nots is creating explosive situation in every nook and cranny of the nation. The agricultural land holdings are fast becoming smaller and smaller and uneconomical and the younger generations of the farmers are no more interested in farming. The housing needs are far beyond the available finances and educational facilities are hopelessly inadequate even to meet the existing demands let alone the future ones. The healthcare has gone out of the reach of the majority of the populace whereas the diseases are spreading menacingly. Similar is the scenario in transport and other sectors. Since there is no balance between our population growth and the available opportunities, a developing nation like ours can hardly expect to achieve a quality life by adding more and more to her numbers in each passing moment.

Hence it has become all the more necessary to check the population boom effectively by tackling it at all levels. Strong measures will have to be initiated to defuse this time bomb or we will perish. It is felt that a legislation to offer a comprehensive package deal of facing the challenge and overcoming the ticklish problem is the need of the hour.

Hence this Bill.

ALKA BALRAM KSHATRIYA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the incentives for adopting small family norm. Clause 12 makes it mandatory for the Central Government to provide adequate funds to the States and Union Territories. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten thousand crore may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of one thousand crore rupees may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

395-3481

XII

BILL NO. LXIV OF 2007

A Bill further to amend the Presidential and Vice-Presidential Elections Act, 1952.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Presidential and Vice-Presidential Elections (Amendment) Act, 2007.

(2) It shall be deemed to have come into force on the 16th June, 2007.

Insertion of
new section
5CC.

2. After section 5C of the Presidential and Vice-Presidential Election Act, 1952 (hereinafter referred to as the Principal Act), the following section shall be inserted, namely:—

31 of 1952

“5CC(1) A candidate shall not be deemed to be duly nominated for election unless he furnishes to the Returning Officer the information relating to,—

- (i) the movable and immovable property of which he is the owner or a beneficiary;
- (ii) his liabilities to any public financial institution;
- (iii) his liabilities to the Central Government or the State Government;

(iv) any offence, he is accused of which is punishable with imprisonment for two years or more, in a pending case wherein a charge has been framed by the Court of competent jurisdiction; and

(v) his conviction in any offence and sentence of to imprisonment for one year or more.

(2) The candidate shall, at the time of delivering to the returning officer, the nomination papers under section 5B also deliver to him an affidavit sworn by the candidate in a prescribed form verifying the information furnished under sub-section (1).

(3) The information under sub-section (1) shall be furnished in such form and in such manner as may be prescribed in the rules made under this Act.

(4) The Election Commission may make rules for the purposes of sub-section (2) and (3).

3. In section 5E of the Principal Act, in sub-section (3), in clause (e) for the words, figures and alphabets "section 5B or section 5C" the words, figures and alphabet "section 5B, 5C or 5CC" shall be substituted.

Amendment
of section 5E.

STATEMENT OF OBJECTS AND REASONS

Today, every MP, MLA and even the representative of local bodies while filling his nomination papers for election has to file a declaration before the returning officer about the pending criminal cases against him and his assets and liability before being nominated as a candidate for election. The prospective candidate for election has to give an affidavit in this regard verifying the details of criminal cases and movable and immovable properties along with his liabilities to the returning officer. However, there is no such requirement of law for the offices of the President and Vice-President in the country. The persons filing nomination for election to the higher offices should also file a similar declaration as is being done by other public representatives as the level of scrutiny should be higher for higher post.

In the last presidential election, a demand was made from various quarters in this regard to the Election Commission. However, since it is the prerogative of Parliament to amend the law it is proposed to amend the Presidential and Vice-Presidential Election Act, 1952 to incorporate certain changes pertaining to declaration in respect of criminal cases and assets and liabilities by the candidates.

Hence this Bill.

KALRAJ MISHRA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (4) of section 5CC proposed to be inserted in the Presidential and Vice-Presidential Election Act, 1952 empower the Election Commission to make rules for the purposes of sub-section (2) and (3). The rules will relate to matters of detail only and the delegation of legislative power is, therefore, of normal character.

54554.0/3.

XIII

BILL NO. LXV OF 2007

A Bill further to amend the Motor Vehicles Act, 1988.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 2007.

Short title and
commencement.

(2) It shall come into force with immediate effect.

59 of 1988.

2. For section 184 of the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Substitution of
new section for
section 184.

“184. Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable for the first offence with imprisonment for a term which may extend to six months or with fine of two thousand rupees which may extend to five thousand rupees, and for any second or subsequent offence with imprisonment for a term which may extend to two years, or with fine of five thousand rupees which may extend to ten thousand rupees, or with both :

Provided that the driving licence of the person *prima facie* accused of the offence under this section shall be suspended for a period of three months which may extend to six months:

Provided further that if a person whose licence has been suspended is found to be driving a motor vehicle within the suspended period, he shall be subjected to the maximum punishment under this section on conviction and his licence shall be revoked permanently.

Substitution of
new section
for section
185

3. For section 185 of the principal Act, the following section shall be substituted, namely:—

185. Whoever, while driving, or attempting to drive, a motor vehicle,—

(a) has, in his blood, alcohol exceeding 30 mg. per 100 ml. of blood detected in a test by a breath analyser, or

(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle,

shall be punishable for the first offence with imprisonment for a term which may extend to one year, or with fine of five thousand rupees which may extend to ten thousand rupees, or with both; and for a second or subsequent offence, with imprisonment for a term which may extend to three years, or with fine of ten thousand rupees which may extend to twenty thousand rupees, or with both.

Provided that the driving licence of the person *prima facie* accused of the offence under this section shall be suspended for a period of six months which may extend to one year:

Provided further that if a person whose licence has been suspended, is found to be driving a motor vehicle within the suspended period, he shall be subjected to the maximum punishment prescribed under this section on conviction and his licence shall be revoked permanently.

Explanation.—For the purposes of this section, the drug or drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle.

STATEMENT OF OBJECTS AND REASONS

Out of the 12 lakh people killed in the road accidents across the world, India accounts for around 60,000 deaths. Not a day is passed when we do not read in the morning news paper that a reckless or tipsy driver killed a child, a woman or a cyclist or motor cyclist. And the irony is that within hours of the incident such a person is free either on bail or otherwise and driving the vehicle again. There is no fear of law in the minds of the people mainly because it does not serve as a deterrent in view of the light punishment and fine under the Act. It has been the experience that in most of the cases the culprit is let off just after imposing fine of rupees 800 to 900. Hardly anybody is put behind bars. So much so there is no provision of suspending the licence of the person found *prima facie* guilty of the dangerous and drunken driving. As a result he is immediately behind the wheel. A case in point is the killer blue line bus service in the capital city of the country. Every day one or two persons are its victim and the driver after committing the gruesome act gets the bail easily and most of the time starts driving the bus again.

Therefore, the need of the hour is to make the law stringent for dangerous and drunken driving. It has *inter alia* also been proposed that the licence of the person convicted for dangerous and drunken driving should be suspended and if under the suspended period, the person is found driving, he should be awarded the maximum punishment and his licence should be revoked permanently.

Hence this Bill.

KALRAJ MISHRA

XIV

BILL NO. LXI OF 2007

A Bill further to amend the General Clauses Act, 1897.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title
and
commencement.

1. (1) This Act may be called the General Clauses (Amendment) Act, 2007.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section
13.

2. In section 13 of the General Clauses Act, 1897, for clause (1), the following clause shall be substituted, namely:— 10 of 1897

(1) words importing,—

(a) the feminine gender shall be taken to include masculine; and

(b) the masculine gender shall be taken to include feminine; and

10 of 1897

STATEMENT OF OBJECTS AND REASONS

The General Clauses Act, 1897 (known as the Interpretation Act in various other jurisdictions) facilitates the shortening of the language of enactments by enabling the draftsman to avoid the tortuous process by just mentioning a specie instead of the broad expression wherever occurring in an enactment. Section 13 of the General Clauses Act, 1897 provides that in all Central Acts and Regulations, unless there is anything repugnant in the subject or context, words importing the masculine gender shall be taken to include females. However, in the same section, while providing a rule of interpretation in relation to numbers, it has been provided that the words in the singular shall include the plural and *vice-versa*. These rules of interpretation are broadly based upon provisions in a similar British statute, namely, the Interpretation Act, 1889. However, the Interpretation Act, 1978 in England has changed the rule of interpretation in relation to gender. Section 6 of the Act provides that, unless contrary intention appears, the words importing masculine gender include the feminine and the words importing feminine gender include the masculine. Rule of interpretation relating to gender in the General Clauses Act, 1897 continues to be gender discriminatory resulting in the drafting of all Bills meant equally for men and women with words exclusively in masculine gender.

2. Law Commission of India in its Sixtieth Report (May, 1974) on the General Clauses Act, 1897 did not suggest any change in the extant rule about gender specification in section 13 for the obvious reason that when it submitted its report it did not have the benefit of many inputs made providing new knowledge about the sexist provisions in the statute book and the new rule of interpretation in relation to gender provided in the Interpretation Act, 1978 in England.

3. Rajya Sabha Committee on Subordinate Legislation in its Hundred and Sixteenth Report on Gender Discrimination in Legislative Drafting submitted on 1st April, 1998 made detailed examination of the discriminatory provisions in section 13 of the General Clauses Act, 1897. In para 5.8 of its Report, it made, *inter alia*, the following recommendations:—

"(a) All new legislations and subordinate legislations may be drafted using non-sexist language;

(b)..... Section 13 of the General Clauses Act also be amended immediately in line with the Interpretations Act, 1978 of England."

4. The proposed amendment to amend section 13 with a view to removing the gender discriminatory provision is long over due.

5. The Bill seeks to achieve the above objectives.

BRINDA KARAT

XV**BILL NO. LXIII OF 2007**

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2007.

(2) It shall come into force immediately.

2. In article 15 of the Constitution, in clause (4) for the words “socially and educationally backward classes” the words “socially, economically and educationally backward classes” shall be substituted.

Short title and
commencement

Amendment
of article 15.

STATEMENT OF OBJECTS AND REASONS

Status of weaker sections in both upper and lower castes has remained unchanged even after a lapse of sixty years after independence even though there has been a reservation policy being followed by the Government since long. The Constitution provides for making special provision for the advancement of the socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. From time to time, the Constitution has been amended to extend benefit of reservation to the members of Scheduled Castes and Scheduled Tribes. Reservation policy of the Government has aimed at integrating all classes of society. In the pursuit of securing a social order, the Government has brought the Other Backward Classes also in the ambit of reservation on the basis of the recommendation of the Mandal Commission. In keeping this spirit, the Directive Principles of State Policy enumerated in the Constitution enjoin upon states a duty to promote the welfare of all people and secure adequate means of livelihood for them to minimise the inequalities.

Despite all these efforts, there has been no remarkable improvement in educational and financial status of backward and weaker sections of the society. Not only this, depriving youths of other classes with higher calibre and merit causes a widespread discontentment among these youths. It is felt that compromising quality of service delivery system in the name of reservation may have adverse effect in the fields of administration, health, education and engineering. In this backdrop, it would be advisable if the term backward class is redefined to mean economically weaker section to cover interest of all the weaker classes irrespective of the castes they belong. It is worth noting that though Government have announced several schemes and programmes for the economically weaker sections, they still remain poor for want of effective implementation of these schemes.

It is, therefore, felt that reservation alone will not solve the problems unless and until there are coordinated efforts at all levels to improve a lot of backward classes. The objective can be achieved in a better way by amending article 15 of the Constitution in order to bring economically backward classes of citizens irrespective of caste within its ambit by enabling the State to make some special provisions for them.

Hence this Bill.

PRAMILA BOHIDAR

YOGENDRA NARAIN,
Secretary-General.